

DETAILED ACTION

Response to Amendment

1. After a phone interview on July 19, 2010 regarding the claim language of the independent claims, Mr. Getz authorized an examiner's amendment, on July 21, 2010 (see below). The amendments place the claims in condition for allowance.

Response to Arguments

2. In response to applicant's arguments regarding claims 34-36, the previous rejection of claims 34-36 under 35 U.S.C. 112, second paragraph, is removed.

EXAMINER'S AMENDMENT

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Richard Getz on July 21, 2010.

The application has been amended as follows:

In the claims:

4. Amendments to claim 1 are as follows:

An apparatus for analyzing biologic fluid, comprising:

a first planar member;

a second planar member, wherein at least one of the first planar member and second planar member is transparent; and

at least three separators disposed between the planar members, each separator individually having a height and the separators collectively having a mean height, separating the planar members to form a chamber having a height extending between the planar members;

wherein ~~the at least one of the first planar member, second planar member, or~~ separators are is sufficiently deformable when the first planar member and second planar member are drawn toward one another by capillary force from a biologic fluid quiescently residing within the chamber to cause the mean chamber height to be substantially equal to the mean height of the separators.

5. Cancel claims 4 and 5.
6. In claim 6, line 1, delete the number "5" and insert the number --1--.
7. Amendments to claim 33 are as follows:

An apparatus for analyzing a biologic fluid, comprising:

a first planar member;

a second planar member, wherein at least one of the first planar member and second planar member is transparent; and

at least three separators disposed between the planar members, each separator individually having a height and the separators collectively having a mean height, separating the planar members to form a chamber having a height extending between the planar members;

wherein the separators and the first planar member are ~~at least one of the first planar member or second planar member~~ is sufficiently deformable when the first planar

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member and second planar member are drawn toward one another by capillary forces from a biologic fluid quiescently residing within the chamber to cause the mean chamber height to be substantially unaffected by the presence of debris within the chamber, which debris has a height greater than the mean separator height.

8. Add claim 40 as follows:

An apparatus for analyzing biologic fluid, comprising:

a first planar member;

a second planar member, wherein at least one of the first planar member and the second planar member is transparent; and

at least three separators disposed between the planar members, each separator individually having a height and the separators collectively having a mean height, separating the planar members to form a chamber having a height extending between the planar members;

wherein the first planar member and the second planar member have greater deformability than the separators, which deformability is sufficient when the first planar member and the second planar member are drawn toward one another by capillary force from a biologic fluid quiescently residing within the chamber to cause the mean chamber height to be substantially equal to the mean height of the separators.

Allowable Subject Matter

9. The following is an examiner's statement of reasons for allowance:

The prior art does not teach or fairly suggest an apparatus comprising a first planar member, a second planar member, with at least three separators disposed

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between the planar members to form a chamber having a height extending between the planar members; wherein the separators are sufficiently deformable when the first planar member and second planar member are drawn toward one another by capillary force from a biologic fluid quiescently residing within the chamber to cause the mean chamber height to be substantially equal to the mean height of the separators (as in amended claim 1)

Furthermore, the prior art does not teach or fairly suggest an apparatus comprising a first planar member, with at least three separators disposed between the planar members to form a chamber having a height extending between the planar members; wherein the separators and the first planar member are sufficiently deformable when the first planar member and the second planar member are drawn toward one another by capillary forces from a biologic fluid quiescently residing within the chamber to cause the mean chamber height to be substantially unaffected by the presence of debris within the chamber, which debris has a height greater than the mean separator height (as in amended claim 33).

Still furthermore, the prior art does not teach or fairly suggest an apparatus comprising a first planar member, with at least three separators disposed between the planar members to form a chamber having a height extending between the planar members; wherein the first planar member and the second planar member have greater deformability than the separators, which deformability is sufficient when the first planar member and the second planar member are drawn towards one another by capillary force from a biologic fluid quiescently residing within the chamber to cause the mean

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chamber height to be substantially equal to the mean height of the separators (as in new claim 40).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

10. Claims 1-3, 6-12, and 33-40 are allowed. Claims 4-5, and 13-32 are cancelled.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHARLES HAMMOND whose telephone number is (571)270-3595. The examiner can normally be reached on 8am-5pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill Warden can be reached on (571)272-1267. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/CHARLES HAMMOND/
Examiner, Art Unit 1797

/Jill Warden/
Supervisory Patent Examiner, Art Unit 1797